IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 775/2006

SMT. BILLO @ VIMLA & ORS. Vs. STATE OF RAJASTHAN

DATE: 17.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Dr. P.C. Jain for the accused-petitioners.
Mr. B.K. Sharma, Public Prosecutor for the State.

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This criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the accused-petitioners against the order dated 15.06.2006 passed by the Additional Sessions Judge No.1, Deeg, District Bharatpur in Sessions Case No. 49/2005, whereby charges for the offences under Sections 147, 148, 341, 332, 332/149, 353, 353/149, 307, 307/149, 336 IPC and Section 3 P.D.P.P. Act have been framed against the accused-petitioners.

Brief facts of the case are that on 31.08.2004 the police party went to village Aklera for apprehending the accused in relation to FIR No. 634/2004 and while the police party was returning about 150 women obstructed the way of the police party and started throwing stones lying on the road and because of which the police persons received injuries and the

police vehicle was also damaged. It is also alleged that firearm was also used.

I have gone through the case diary also. As per injury report, injury of firearm is proved.

The main grievance of the petitioners against the impugned order by which charges for the aforesaid offences have been framed against the petitioners is that the women accused are not involved and there is no allegation against the women accused regarding use of fire arm, therefore, no case under Section 307 IPC is made out.

Learned counsel Dr. Jain appearing on behalf of the accused-petitioners further placed reliance on the judgment dated 22.03.2007 rendered by this Court in **S.B. Criminal Revision Petition No. 965/2006- Devli & Ors. Vs. State of Rajasthan.** He also referred the provisions of the Code of Criminal Procedure.

I have heard learned counsel for the accused-petitioners, learned Public prosecutor for the State and have also gone through the impugned order as well as the relevant provisions of the Code of Criminal Procedure and the Indian Penal Code referred before me.

Section 240 Cr.P.C. reads as under:-

240. Framing of charge- (1) If, upon consideration examination, if

> any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion could be adequately punished by him, he shall frame in writing a charge against the accused.
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> (2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claimed to be tried.

Learned counsel for the petitioners further raised objection that while framing the charges against the accused-petitioners for the offence under Sections 147, 148, 341, 332, 332/149, 353, 353/149, 307, 307/149, 336 IPC and Section 3 P.D.P.P. Act, the trial Court has not attributed specific allegations against the particular person, more particularly against the women accused-petitioners.

As per the considered view expressed by the Hon'ble Supreme Court as also this Court, this is not a stage to appreciate the evidence and the act of the particular accused can only be established after examining the entire evidence of the witnesses. As stated herein above, this is not a stage to interfere with the impugned order framing charges against the accused-petitioners for the aforesaid offences as the

Court is competent to alter or add to any charge at any time before judgment is pronounced as per the provisions of Section 216 Cr.P.C. and the petitioners have got opportunity to submit their just and legal submissions at the time of trial, but in any case this is not a stage where any interference in the impugned order is required by this Court. It is not disputed that firearm is used and the trial Court has found that prima-facie case for the offence under Sections 147, 148, 341, 332, 332/149, 353, 353/149, 307, 307/149, 336 IPC and Section 3 P.D.P.P. Act is made out against the accused-petitioners, therefore, charges for the aforesaid offences have been framed against the accused-petitioners vide impugned order dated 15.06.2006, which requires no interference by this Court.

The judgment referred by the learned counsel for the accused-petitioners is not applicable to the facts and circumstances of the present case as in the aforementioned case of **Devli & Ors. (supra),** as per the nature of injuries and the opinion expressed by the Radiologist after conducting X-ray, injury was not sufficient to cause death and was also not on the vital part of the body, therefore, in the aforementioned case to the extent of framing of charge under Section 307

IPC against the petitioners the impugned order was quashed and set-aside, but in the instant case admittedly firearm is used and so many persons received firearm injuries and as per the medical report these injuries were sufficient to cause death, therefore, charge for the offence under Section 307 IPC is prima-facie made out against the accused-petitioners.

In view of these facts, I find no merit in the revision petition. No interference whatsoever is required by this Court.

Consequently, the revision petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

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